



Percentage



Economy



Pie chart

Tax Alert: Implementation requirements under Act 25-2017 and upcoming changes in SURI

June 22, 2017

On June 15, 2017, the Puerto Rico Treasury Department (“PRTD”) released Administrative Determination (“AD 17-04”) to further explain the changes that were introduced to the Puerto Rico Internal Revenue Code (“the Code”) with the approval of Act 25-2017 (“Act 25”) and inform about certain changes to the original implementation dates included in the law.

Changes to the municipal “use tax” on imports

Among others, Act 25 amended Section 6080.14 of the Code to establish that the municipalities will no longer be collecting the 1% municipal portion corresponding to the imports for “use” in the business, thus allowing the Puerto Rico Treasury Department to collect such tax and remitting it to the municipalities in a monthly basis based on the shipping address notified by the person responsible for the payment of SUT.

Pursuant to Act 25 the collection of the 1% use tax corresponding to the municipalities was supposed to start on July 1, 2017, however AD 17-04 informs that due to the complexity of the required programming and the required changes to the forms, the Puerto Rico Treasury Department extended the effectiveness of this change until August 1, 2017. Consequently, the collection of the municipal (1%) “use tax” will still be done by the municipalities on all imports for use made on or before July 31, 2017.

Bonded merchants

AD 17-04 also indicates that those merchant holders of an active bond, must do the necessary arrangements to consider the 1% municipal use tax, since effective August 1, 2017 it will be deducted from their bond. In those cases, where the bond does not have enough balance to cover the total amount of the import, the bonded merchants shall be obliged to pay the SUT amount on all declared articles, prior to obtaining the release of the

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merchandise by the Puerto Rico Treasury Department. Those merchants who elect to increase their bonds, in order to take in consideration, the municipal use tax, must submit a letter informing such increase to the Director of the Consumption Tax Bureau along with a rider from the insurance company that issued the bond. The letter must be submitted to the Consumption Tax Bureau no later than July 31, 2017.

New category of merchants

Due to the amendments introduced to the Code by Act 25, the Puerto Rico Treasury Department created a new category of merchants known as Non-Withholding Agent. This category refers to merchants who make sales that are delivered by mail and whose only contact with Puerto Rico is that the buyer is a Puerto Rico resident or is engaged in a trade or business in Puerto Rico. This category of merchants is not be required to collect the SUT, but will be required to inform their buyers in writing through a note in every invoice, receipt or any document evidencing the sale (physical or electronic), regarding their obligation to pay the use tax on the imported items. Pursuant to AD 17-04 the notification requirements are effective July 1, 2017. This new category is for sellers of tangible personal property and should not be confused with the original Non-Withholding Agents who are engaged in rendering services and were classified as non-withholding agents due to their volume of business or the type of the services rendered.

Pursuant to Act 25 a seller of tangible personal property classified as Non-Withholding Agent can voluntarily request to be treated as a withholding agent in which case will be required to collect the SUT for the sales delivered to Puerto Rico. This “Voluntary Withholding Agent” will be excluded from the reporting requirements established by Act 25.

The Puerto Rico Treasury Department is currently working in the issuance of a regulation for Act 25, but in the meantime the agency is willing to receive agreements through the office of the Sub-Secretary of Treasury for the collection of SUT by taxpayers under the new category of Non-Withholding Agents.

We will continue to monitor this and any other information and will keep you up to date throughout our Tax Alerts.

Note: As highlighted in our July 1, 2016 Tax Alert, PROMESA seeks to provide Puerto Rico with fiscal and economic discipline through the creation of a control board, among other things. Virtually every fiscal decision by the Government of Puerto Rico will be made or approved by the Oversight Board created by PROMESA. On this regard, the board has authority to prevent the execution or enforcement of a contract, rule, executive order or regulation to the extent that it is inconsistent with the approved fiscal plan.

Please contact our Tax Department should additional information is required regarding this or any other tax issue. We will be glad to assist you.



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